

LEGAL PROFESSION

Professional discipline – Publicity – Newspaper articles publicising lawyer and his practice – Whether remarks laudatory – Whether publicity infringed Legal Profession Act 1967 and Legal Profession (Publicity) Rules 2001 – Legal Profession Act 1967, section 94(3)(k) and (o) – Legal Profession (Publicity) Rules 2001, rule 2, 5(1)(b)(vi) and 24

Majlis Peguam v Dato Sri Dr Muhammad Shafee Abdullah

[2016] 5 MLJ 572, Federal Court

Facts The appellant is a body corporate established under the Legal Profession Act 1976 (“the Act”) while the respondent is an Advocate and Solicitor of the High Court of Malaya. The appellant complained to the disciplinary board that the respondent had breached the Legal Profession (Publicity) Rules 2001 (“the Rules”), based on an interview he gave that appeared in two articles in *The Star* newspaper. The appellant claimed that the articles which not only suggested that he was a ‘high profile lawyer’ and ‘top lawyer’, but also publicised his practice and his firm, had gone beyond the scope of ‘approved information’ and that providing such information had amounted to misconduct under section 94(3)(k)¹ and (o)² of the Act and rule 2³, 5(1)(b)(vi)⁴, 15(2)⁵ and (24)⁶ of the Rules. The disciplinary committee which conducted the inquiry concluded that the respondent had breached the Act and Rules, and recommended that a fine of MYR5,000 be imposed on the respondent. The respondent appealed. The High Court dismissed the appeal. The respondent appealed to the Court of Appeal, which allowed the appeal. An appeal was then made to the Federal Court.

Issue The issue was whether the respondent had publicised himself and his firm of solicitors in a manner that infringed the Act and the Rules.

Held In dismissing the application, the Federal Court held that the respondent had not publicised himself or his firm, as the words describing the respondent as a ‘high profile lawyer’ and a ‘top lawyer’ was the journalist’s own remarks which reflected the journalist’s personal opinion, which was not within the control of the respondent. It was also held that the statements reflected in the articles were not laudatory remarks as they were made in the course of an extensive long interview in response to questions relating to the criminal justice system and the respondent’s preference insofar as work was concerned. Thus, the information provided in the articles amounted to ‘approved information’.

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¹ “Misconduct” includes the breach of any provision of the Act or any rules made thereunder or any direction or ruling of the Bar Council.

² “Misconduct” includes being guilty of any conduct which is unbecoming of an advocate and solicitor or which brings or is calculated to bring the legal profession into disrepute.

³ Rule 2 defines the meaning of “approved information” and “publicise”.

⁴ An Advocate and Solicitor who publicises his practice or the practice of his firm within Malaysia shall not in the publicity make any laudatory references to himself or his firm, or directly or indirectly extol the quality of the professional services provided by him or his firm.

⁵ Where an Advocate and Solicitor is interviewed by the press, radio, television or other media, he shall not allow any information pertaining to himself or his firm, except approved information, to be publicised.

⁶ Responsibility of Advocate and Solicitor in relation to publicity concerning him.